IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WP(C).No. 34343 of 2007(L)

PETITIONER:

ONWARD TECHNOLOGIES LTD., G.193,
IST FLOOR, PANAMPILLY NAGAR, ERNAKULAM
REPRESENTED BY ASST.MANAGER, CUSTOMER RELATIONS,
BANKING & NETWORKS, MR.JAMES JOHN.

BY ADV. SRI.R.MURALIDHARAN (AROOR)

RESPONDENTS:

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1. THE SALES TAX OFFICER,
II-CIRCLE, DEPARTMENT OF COMMERCIAL TAXES,
THRIPUNITHURA.

2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM.

3. THE SALES TAX APPELLATE TRIBUNAL,
ADDITIONAL BENCH, ERNAKULAM.

BY GOVERNMENT PLEADER SRI. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J

W.P.(C). 34343/2007

Dated this the 21st day of November, 2007

JUDGMENT

Against Ext.P1 order of assessment, appeal has filed by the petitioner which was disposed of by Ext.P4 order. Thereafter aggrieved by Ext.P4, petitioner filed an appeal before the third respondent along with Ext.P7 application for condonation of 230 days of delay. Delay petition was heard and was dismissed by Ext.P5 and consequently appeal was also dismissed as per Ext.P6. It is in this background this writ petition has been filed seeking to quash Exts.P5 and P4 and seeking an order to consider the appeal on merits.

2. I heard the learned Government Pleader also in this matter.

3. On going through Ext.P7 application for condonation of delay and Ext.P5 order passed thereon, I am not satisfied with the approach adopted by the third respondent. In Ext.P7 petitioner has stated that it was on

account of a bonafide mistake that the delay has occurred. Petitioner pleaded that there is no willful latches or negligence on his part and sought condonation of delay. However Tribunal in Ext.P5 held that only grievance of the petitioner is that Assessing Officer has not made the assessment in accordance with the directions of the Deputy Commissioner. This does not appear to be a correct assessment of the reason pleaded by the petitioner in Ext.P7.

4. Accordingly, I quash Ext.P5 order and consequently Ext.P6 also. There will be a direction to the third respondent, Tribunal, to reconsider Ext.P7 application filed by the petitioner for condonation of delay in filing the appeal and depending upon the decision so taken, the appeal shall also be taken for consideration.

Writ petition is disposed of as above.

ANTONY DOMINIC
Judge

mrcs